

### REMARKS/ARGUMENTS

Applicant has herein amended claims 1, 4-7, 9-13, 16-19, 23-27, and 30. Claims 1-34 will remain in the application after entry of this amendment. Applicant requests a one (1) month extension of the time to reply to the office action and an appropriate fee is enclosed. Applicant hereby requests reconsideration in view of the foregoing amendments and the arguments made below.

The Examiner has noted that the same reference was inadvertently cited by Applicant in two different information disclosure statements. Applicant agrees with the Examiners course of action to initial the citation on only one of the SB08 forms. Applicant apologizes to the Examiner for this oversight and thanks the Examiner for patience in dealing with this error without requiring further action on the part of the Applicant.

Applicant further notes that the Examiner has accepted the originally filed drawings. Applicant thanks the Examiner for the review of the drawings.

The Applicant has amended one of the paragraphs of the specification to correct a typographical error. No new matter has been added with this amended paragraph. Applicant trusts this amendment to the specification will meet with the Examiner's approval.

The Examiner has rejected all of Applicant's claims under 35 U.S.C. § 102(e) in view of European Patent Application 1-133-071 A2 to Debak. Applicant notes that a European patent application cannot qualify as prior art under section 102(e). Nevertheless, the Applicant has reviewed the European patent, along with counterpart U.S. Patent 6,775,260, to Debak et al and makes the following observations and arguments.

In order for a claim to be anticipated, the cited reference must teach every element of the claim, either expressly or inherently. M.P.E.P. § 2131. All of Applicant's claims have recitations for which no corresponding teaching or disclosure can be found in the Debak references. In some cases, there are many such limitations. Debak describes a multi-user TDD receiver with a matched filter for each finger of a RAKE receiver. All users are assumed to have the same finger locations. See Fig. 7 of the Debak references, and the accompanying discussion. Such an arrangement is specifically designed for systems where users transmit synchronously, as in a typical CDMA system. While the Debak references suggest use with TDMA stating that TDMA is CDMA with a spreading factor of one, users would still need to be transmitting

synchronously for the Debak receiver to work properly. Furthermore Debak does not actually disclose such an implementation, since all of the disclosed embodiments show different spreading codes for each user, which is inconsistent with the use of a spreading factor of one.

Applicant's claims 1, 7, 11-13, 19, and 27 have been amended to recite that Applicant's invention is operable where "the first user and the second user can be asynchronous." Support for this recitation can be found in the specification at page 5, lines 11-13. Applicant submits that these claims patentably distinguish his invention from Debak for at least this reason. This recitation is incorporated into all dependent claims of the application through dependence from claims so amended. For consistency, Applicant has amended dependent claims 9, 10, 23-26, and 30 to remove the reference to asynchronous users.

Applicant would like to point out additional limitations contained in some of his claims, which are not disclosed by the Debak references. Claims 4-6 and 16-18, both originally and as amended, recite the use of a semi-blind initialization procedure. While the Examiner has made reference to Fig. 4 of the Debak references in discussing this recitation, Applicant can find no teaching or even mention of semi-blind initialization here or anywhere else in the Debak references. Again, in order for a claim to be anticipated, the cited reference must teach every element of the claim. A semi-blind initialization procedure as disclosed and claimed by Applicant involves initializing where a channel estimate for only one user is known. See Fig. 5 of the present application, and the discussion at page 13, lines 3-7. Dependent claims 4-6 and 16-18 have been amended to recite essentially this definition, in order to clarify this point. Applicant submits that such a change amounts to making extrinsic what was already intrinsic in the claim language. See *Bose Corp. v. JBL, Inc.*, 61 USPQ2d 1216 (Fed Cir. 2001). Thus, claims 4-6 and 16-18 were and still are patentably distinguishable from the Debak references for this additional reason.

Applicant's claims 9, 10, 23-26, and 30 all recite (and originally recited) making use of a pulse-shape component. The Examiner has likened this to a channel estimate for the current symbol in the RAKE receiver of Debak. However a pulse-shape component and a channel estimate are not the same thing, which is apparent from Applicant's claims since channel estimates are recited separately. Thus, claims 9, 10, 23-26, and 30 are patentably distinguishable from Debak for this additional reason.

For the foregoing reasons, Applicant respectfully submits that the present claims as amended are in condition for allowance. Reconsideration, withdrawal of the rejections and allowance is hereby requested.

Respectfully submitted,

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